

1 ROBERT W. FREEMAN
2 Nevada Bar No. 3062
3 Robert.Freeman@lewisbrisbois.com
4 FRANK A. TODDRE, II
5 Nevada Bar No. 11474
6 Frank.Toddre@lewisbrisbois.com
7 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
8 6385 S. Rainbow Boulevard, Suite 600
9 Las Vegas, Nevada 89118
10 TEL: 702.893.3383 / FAX: 702.893.3789
11 *Attorneys for Defendant State Farm Mutual
12 Automobile Insurance Company*

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 PAULA CHMIEL, individually;

11 Plaintiff,

12 vs.

13 STATE FARM MUTUAL AUTOMOBILE
14 INSURANCE COMPANY, a Foreign
15 Company; DOES I through X, inclusive; ROE
16 CORPORATIONS XI through XX, inclusive,

17 Defendants.

CASE NO.: 2:22-cv-1768-RFB-DJA

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

[FOURTH REQUEST]

18 Pursuant to LR 6-1 and LR 26-3, the parties, by and through their respective counsel of
19 record, hereby stipulate and request that this Court extend discovery in the above-captioned case by
20 sixty (60) days, up to and including Friday, June 14, 2024. In addition, the parties request that all
21 other future deadlines contemplated by the Discovery Plan and Scheduling Order be extended
22 pursuant to Local Rule. In support of this Stipulation and Request, the parties state as follows:

23 **DISCOVERY COMPLETED**

24

25 1. On November 16, 2022, the parties conducted an initial FRCP 26(f) conference.

26 2. On December 21, 2022, Plaintiff served written discovery on Defendant State Farm.
27 State Farm's Responses are due on March 7, 2023.

28 3. On January 9, 2023, Plaintiff served her FRCP 26 Initial Disclosures. Plaintiff has

supplemented their disclosures three times time, last on or about June 12, 2023.

4. On February 2, 2023, Defendant served its FRCP 26 Initial Disclosures. State Farm has provided two supplements to disclosures, the last served on or about April 18, 2023.
5. On March 6, 2023, Defendant served written discovery on Plaintiff Chmiel. Chmiel provided responses approximately May 2, 2023.
6. On June 12, 2023, Plaintiff served additional responses to Defendant SFMAIC's written discovery, as well as their 3rd Supplement to Initial Disclosure List of Witnesses and Documents.
7. On June 13, 2023, Defendants deposed Plaintiff Chmiel.
8. On June 16, 2023, Defendants deposed fact witness Brandin Erickson.
9. On October 18, 2023 the parties held a meet and confer conference regarding SFMAIC responses to discovery.
10. On or about October 19, 2023 the parties finalized a stipulation regarding an Independent Medical Examination for Ms. Chmiel.
11. Ms. Chmiel has undergone the independent medical examination on November 10, 2023.
12. The parties engaged in several meet and confers and Plaintiffs filed two Motions to Compel (ECF Nos 29 and 32).
13. Defendants are in the process of supplementing discovery based upon Magistrate Judge Albregts' ruling on the written discovery motion to compel.

DISCOVERY REMAINING

1. The parties will continue participating in written discovery.
2. Defendant will collect Plaintiff's medical records.
3. Pursuant to meet and confer discussions, SFMAIC will be supplementing certain discovery responses.
4. Plaintiff will depose State Farm representatives.
5. Plaintiff will depose Defendant's FRCP 30(b)(6) witness(es).

6. The parties may depose any and all other witnesses garnered through discovery, potentially including treatment providers and claims adjusters.
7. The parties will designate expert witnesses and may conduct depositions of those expert witnesses.
8. Any and all remaining discovery required as permitted by the Federal Rules of Civil Procedure.

WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED

8 The parties aver, pursuant to Local Rule 26-3, that good cause exists for the following
9 requested extension. This Request for an extension of time is not sought for any improper purpose
10 or other purpose of delay. Rather, the parties seek this extension solely for the purpose of allowing
11 sufficient time to conduct discovery and to consider alternative dispute resolution prior to expert
12 discovery.

13 The parties have been diligent in moving the case forward: participating in a reasonable
14 amount of discovery, including exchanging their initial lists of witnesses and documents;
15 propounding written discovery requests and preparing responses thereto; records procurement; and
16 the deposition of both Plaintiff Chmiel and fact witness Brandin Erickson.

17 Counsels for Plaintiff and Defendants had spent significant time discussing attending
18 mediation attempting to settle this matter. If settlement in mediation is unsuccessful the parties have
19 discussed submitting this matter to binding arbitration. The discussion is ongoing but the parties are
20 moving forward with the case while SFMAIC considers a mediation proposal.

21 That noted, the parties have exchanged significant settlement offers and counteroffers
22 informally starting in January 2024. The parties are cautiously optimistic they may be able to resolve
23 the matter without formal alternative dispute resolution mechanisms.

24 Plaintiff has filed two Motion to Compel on the discovery issues that the parties were unable
25 to agree upon. Defendant is currently gathering documents and information to supplement the
26 discovery responses in accordance with Magistrate Judge Albregts' order.

27 The parties will undertake further briefing in association with Plaintiff's request for the fully
28 unredacted claims file (ECF No. 31). However, in the event the settlement talks are fruitful and/or

1 developing, the parties will likely request this court continue any hearing/disposition on the second
 2 motion to compel.

3 Further, both parties' insurance experts will likely need any additional information for
 4 analysis and consideration in their expert reports based upon the supplemental discovery, or
 5 amended claims file.

6 Extension or Modification of The Discovery Plan and Scheduling Order. LR 26-3 governs
 7 modifications or extension of the Discovery Plan and Scheduling Order. Any stipulation or motion
 8 to extend or modify that Discovery Plan and Scheduling Order must be made no later than twenty-
 9 one (21) days before the expiration of the subject deadline and must comply fully with LR 26-3.
 10 This stipulation is made more than 21 days before the expiration of any deadlines.

11 This is the third request for extension of time in this matter. The parties respectfully submit
 12 that the reasons set forth above constitute compelling reasons for the short extension.

13 The following is a list of the current discovery deadlines and the parties' proposed extended
 14 deadlines:

| Scheduled Event | Current Deadline | Proposed Deadline |
|---|------------------------------------|--|
| Discovery Cut-off | <i>Monday, April 15, 2024</i> | <i>Friday June 14, 2024</i> |
| Deadline to Amend Pleadings or Add Parties | <i>Wednesday, October 18, 2023</i> | <i>CLOSED</i> |
| Expert Disclosure pursuant to FRCP 26 (a)(2) | <i>Monday, February 19, 2024</i> | <i>Friday April 19, 2024</i> |
| Rebuttal Expert Disclosure pursuant to FRCP. 26(a)(2) | <i>Monday, March 18, 2024</i> | <i>Friday, May 17, 2024</i> |
| Dispositive Motions | <i>Tuesday, May 14, 2024</i> | <i>Monday, July 15, 2024¹</i> |

24
 25
 26
 27 ¹ The sixty day enlargement fell on Saturday, July 13. Accordingly the request is moved to the
 28 next available Court day.

| Scheduled Event | Current Deadline | Proposed Deadline |
|----------------------|------------------------|--|
| Joint Pretrial Order | Tuesday, June 11, 2024 | <i>Monday, August 12, 2024.²</i> <i>If dispositive motions are pending, then the parties will serve their Joint Pretrial Order within thirty days of the Court's order as to the parties' dispositive motions.</i> |

WHEREFORE, the parties respectfully request that this Court extend the discovery period by sixty (60) days from the current deadline of Monday, April 15, 2024, up to and including Friday June 14, 2024, and the other dates as outlined in accordance with the table above.

Dated this 29th day of January, 2024.

Dated this 29th day of January, 2024.

LEWIS BRISBOIS BISGAARD & SMITH LLP

HICKS & BRASIER, PLLC.

/s/ Frank A. Toddre, II

/s/ Alison M. Brasier

Robert W. Freeman, Esq.

Alison M. Brasier, Esq.

Nevada Bar No. 3062

Nevada Bar No. 10522

FRANK A. TODDRE, II

2630 S. Jones Blvd.

Nevada Bar No. 11474

Las Vegas, Nevada 89146

6385 S. Rainbow Boulevard, Suite 600

Attorneys for Plaintiff Paula Chmiel

Las Vegas, Nevada 89118

Attorneys for State Farm Mutual Automobile
Insurance Company

ORDER

IT IS SO ORDERED.

DATED this 30th day of January 2024.


 UNITED STATES MAGISTRATE JUDGE

² The sixty day enlargement fell on Saturday, August 10. Accordingly the request is moved to the next available Court day.